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Attorneys for Defendant

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

NICOLE LOUISE WAGNER,

Plaintiff,

v.

MICHAEL J. ASTRUE,
 Commissioner of
 Social Security,

Defendant.

CIVIL NO. C10-02413 PJH

STIPULATION AND ORDER APPROVING
 SETTLEMENT OF ATTORNEY FEES
 PURSUANT TO THE EQUAL ACCESS TO
 JUSTICE ACT

IT IS HEREBY STIPULATED by and between the parties, through their undersigned counsel, subject to the Court's approval, that counsel for Plaintiff, as assignee, be awarded attorney fees under the Equal Access to Justice Act, (EAJA) in the amount of THREE THOUSAND, EIGHT HUNDRED NINETY FIVE DOLLARS AND EIGHT CENTS (\$3,895.08). This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. § 2412(d).

After the Court issues an order for EAJA fees and expenses to Plaintiff, the Government will consider the matter of Plaintiff's assignment of EAJA fees and expenses to her attorney. Pursuant to Astrue v. Ratliff, 130 S.Ct. 2521 (U.S. June 14, 2010), the ability to honor the assignment will depend on whether the fees and expenses are subject to any offset allowed under the United States Department of the Treasury's Offset Program. After the order for EAJA fees and expenses is entered, the Government will determine

whether they are subject to any offset. Fees and expenses shall be made payable to Plaintiff, but if the Department of the Treasury determines that Plaintiff does not owe a federal debt, then the Government shall cause the payment of fees, expenses and costs to be made directly to David J. Linden, pursuant to the assignment executed by Plaintiff. Any payments made shall be delivered to Plaintiff's counsel.

This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney fees and expenses, and does not constitute an admission of liability on the part of Defendant under the EAJA. Payment of the agreed amount shall constitute a complete release from, and bar to, any and all claims that Plaintiff and/or Plaintiff's counsel may have relating to EAJA attorney fees and expenses in connection with this action.

This award is without prejudice to the rights of Plaintiff's counsel to seek Social Security Act attorney fees under 42 U.S.C. § 406, subject to the offset provisions of the EAJA.

Dated: March 10, 2011

/s/ David J. Linden
(As authorized via email)
DAVID J. LINDEN
P.O. Box 5780
Napa, CA 94581
Attorney for Plaintiff

MELINDA L. HAAG
United States Attorney

Dated: March 10, 2011

By: /s/ Elizabeth Firer
ELIZABETH FIRER
Special Assistant United States Attorney

PURSUANT TO STIPULATION, IT IS SO ORDERED that Plaintiff shall be awarded attorney fees in the amount of THREE THOUSAND, EIGHT HUNDRED NINETY FIVE DOLLARS AND EIGHT CENTS (\$3,895.08), as authorized by 28 U.S.C. § 2412(d), subject to the terms of the above-referenced Stipulation.

Dated: 3/14/11

